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★ JAN 24 2019 ★ 1/17/19

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To The Honorable Judge Donnelly
BROOKLYN OFFICE

I am in receipt of this Court's order dated the 10th day of January, 2019, requesting the Respondent to show cause within 60 days of receipt of such order as to why my writ of habeas corpus should not be granted, however, there appears to be an oversight which is crucial to fundamental fairness. It is noteworthy that upon submission of my petition dated the 28th day of December, 2018, 1:18-cv-07252-AMD-LB, I had initially requested a "stay and abeyance" in order to avoid the pitfalls of a possible dismissal of my petition due to the submission of both exhausted and unexhausted claims which are meritorious, however, the Court did not acknowledge such request.

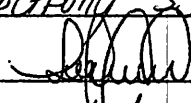
My failure to properly exhaust all issues at a state level was due to a combination of confusion with respect to my petition, as well as an OST (Office of Special Investigation) investigation having obstructed my access to the Court being that all computers at the Law Library were confiscated, and, when returned, were returned without the capability of accessing my previously saved 440 motion. Therefore, I felt a prudent course would be to submit my petition in order to "stop the clock" (if Your Honor will).

I have previously cited cases supporting my request to have my petition "Stayed." Off the top of my head, I can recall Rhinos v. Webber which is a case where the Court stayed the petition based on Petitioner's reasonable confusion as well as having potentially meritorious claims, which is currently my situation.

I am respectfully requesting Your Honor to address my request for a "stay and abeyance", thereby re-ordering Respondent to show cause why petition should not be granted, after I have fully exhausted my remedies at a State Court level. I feel that I deserve to have the matter determined on the merits and am simply attempting to avoid inadvertent forfeitures.

Your Honor, I thank you so much for your time and consideration in this extremely important matter. Likewise, in the event that my request for a "stay and abeyance" is denied, I am formally reserving my right to submit an amended petition so that I may dismiss my unexhausted claims. Thank You.

cc: Attorney General of the State of NY Respectfully Submitted,


Yrmaculada Gomez

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